

## ***IDAHO ADMINISTRATIVE BULLETIN***

## *Table of Contents*

*February 1, 2006 -- Volume 06-2*

<b>PREFACE.....</b>	2	
<b>THE OFFICE OF THE GOVERNOR</b>		
Executive Order No. 2005-25		
Continuation of the Designation of the Idaho Transportation Department and Its Director as the Recipient of Federal Funds for Public Transportation .....	11	
<b>IDAPA 07 - DIVISION OF BUILDING SAFETY</b>		
<i>07.02.05 - Rules Governing Plumbing Safety Licensing</i>		
Docket No. <b>07-0205-0501</b>		
Notice of Vacation of Proposed Rulemaking .....	12	
<i>07.02.06 - Rules Concerning Uniform Plumbing Code</i>		
Docket No. <b>07-0206-0502</b>		
Notice of Rulemaking - Adoption of Pending Rule .....	13	
<b>IDAPA 31 - PUBLIC UTILITIES COMMISSION</b>		
<i>31.21.01 - Customer Relations Rules for Gas, Electric and Water Public Utilities Regulated by the Idaho Public Utilities Commission (The Utility Customer Relations Rules)</i>		
Docket No. <b>31-2101-0402</b>		
Notice of Rulemaking - Correction to Pending Rule .....	14	
<b>IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY</b>		
Docket No. <b>58-0000-0601</b>		
Notice of Final Decision on the Cow Creek TMDL .....	19	
<b>SUBJECTS AFFECTED INDEX .....</b>		20
<b>LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS .....</b>		21
<b>FIRST QUARTER 2006 CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES .....</b>		22
<b>SUBJECT INDEX .....</b>		186

# Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Rulemaking Notice published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

## CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin **05-1** refers to the first Bulletin issued in calendar year 2005; Bulletin **06-1** refers to the first Bulletin issued in calendar year 2006. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **05-1** refers to January 2005; Volume No. **05-2** refers to February 2005; and so forth. Example: The Bulletin published in January of 2006 is cited as Volume **06-1**. The December 2005 Bulletin is cited as Volume **05-12**.

## RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are **not** printed in the Administrative Code and are published only in the Bulletin.

To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.

## TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.

### NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate" a rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.

## **PROPOSED RULEMAKING**

*A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:*

- a) *the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) *a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) *the text of the proposed rule prepared in legislative format;*
- d) *the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) *the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) *the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and*
- g) *the deadline for public (written) comments on the proposed rule.*

*As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.*

## **TEMPORARY RULEMAKING**

*Temporary rules may be adopted only when the governor finds that it is necessary for:*

- a) *protection of the public health, safety, or welfare; or*
- b) *compliance with deadlines in amendments to governing law or federal programs; or*
- c) *conferring a benefit;*

*If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.*

*A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.*

*State law required that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.*

*An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rulemaking that is being vacated, the agency, in most instances, should rescind the temporary rule.*

## **PENDING RULEMAKING**

*A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule.*

*When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Pending Rulemaking". This includes:*

- a) *a statement giving the reasons for adopting the rule;*
- b) *a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) *the date the pending rule will become final and effective;*
- d) *an identification of any portion of the rule imposing or increasing a fee or charge.*

*Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Pending Rulemaking" is published.*

## **FINAL RULEMAKING**

*A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is in effect and enforceable.*

*No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.*

## **AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN**

*The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls, Twin Falls, Lewiston and East Bonner County Library.*

## **SUBSCRIPTIONS AND DISTRIBUTION**

*For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-00306, telephone (208) 332-1820.*

*The Idaho Administrative Bulletin is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.*

*The Idaho Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.*

*Individual Rule Chapters and Individual RuleMaking Dockets, are specific portions of the Bulletin and Administrative Code produced on demand.*

*Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>*

## **HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN**

*Rulemaking documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering system. Each state agency has a two-digit identification code number known as the "IDAPA" number. (The "IDAPA" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "TITLE" number is assigned. There are "CHAPTER" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:*

**IDAPA 38.07.01.200.02.c.ii.**

*"IDAPA" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.*

*"IDAPA 38" refers to the Idaho Department of Administration*

*"05." refers to Title 05, which is the Department of Administration's Division of Purchasing*

*"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing"*

*"200." refers to Major Section 200, "Content of the Invitation to Bid"*

*"02." refers to Subsection 200.02.*

*"c." refers to Subsection 200.02.c.*

*"ii." refers to Subsection 200.02.c.ii.*

## **DOCKET NUMBERING SYSTEM**

*Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0501). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:*

### **"DOCKET NO. 38-0501-0501"**

*"38-" denotes the agency's IDAPA number; in this case the Department of Administration.*

*"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), Rules of the Division of Purchasing (Chapter 01).*

*"0501" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 2005.*

*Within each Docket, only the affected sections of chapters are printed. (see **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:*

**"(BREAK IN CONTINUITY OF SECTIONS)"**

## **INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN**

*When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:*

**"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."**

*The citation may also include the IDAPA, Title, or Chapter number, as follows"*

**"...in accordance with IDAPA 38.05.01.201..."**

*"38" denotes the IDAPA number of the agency.*

*"05" denotes the TITLE number of the rule.*

*"01" denotes the Chapter number of the rule.*

*: "201" references the main Section number of the rule that the citation refers to.*

*Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:*

**"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, "Rules Governing Capitol Mall Parking."**

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2006**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
06-1	January 2006	*November 19, 2005	January 4, 2006	January 25, 2006
06-2	February 2006	January 5, 2006	February 1, 2006	February 22, 2006
06-3	March 2006	February 3, 2006	March 1, 2006	March 22, 2006
06-4	April 2006	March 3, 2006	April 5, 2006	April 26, 2006
06-5	May 2006	March 31, 2006	May 3, 2006	May 24, 2006
06-6	June 2006	May 5, 2006	June 7, 2006	June 28, 2006
06-7	July 2006	June 2, 2006	July 5, 2006	July 26, 2006
06-8	August 2006	June 30, 2006	August 2, 2006	August 23, 2006
06-9	September 2006	August 4, 2006	September 6, 2006	September 27, 2006
06-10	October 2006	**August 23, 2006	October 4, 2006	October 25, 2006
06-11	November 2006	October 6, 2006	November 1, 2006	November 22, 2006
06-12	December 2006	November 3, 2006	December 6, 2006	December 27, 2006

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2007**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
07-1	January 2007	*November 15, 2006	January 3, 2007	January 24, 2007
07-2	February 2007	January 5, 2007	February 7, 2007	February 28, 2007
07-3	March 2007	February 2, 2007	March 7, 2007	March 28, 2007
07-4	April 2007	March 2, 2007	April 4, 2007	April 26, 2007
07-5	May 2007	April 6, 2007	May 2, 2007	May 24, 2007
07-6	June 2007	May 4, 2007	June 6, 2007	June 28, 2007
07-7	July 2007	June 1, 2007	July 4, 2007	July 26, 2007
07-8	August 2007	June 29, 2007	August 1, 2007	August 23, 2007
07-9	September 2007	August 3, 2007	September 5, 2007	September 27, 2007
07-10	October 2007	**August 22, 2007	October 3, 2007	October 25, 2007
07-11	November 2007	October 5 2007	November 7, 2007	November 22, 2007
07-12	December 2007	November 2, 2007	December 5, 2007	December 27, 2006

**\*Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.**

**\*\*Last day to submit proposed rules in order to complete rulemaking for review by legislature.**

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS</b>		
<b>IDAPA 01</b>	<b>Accountancy, Board of</b>	<b>VOLUME 1</b>
<b>IDAPA 38</b>	<b>Administration, Department of</b>	<b>VOLUME 8</b>
<b>IDAPA 44</b>	<b>Administrative Rules Coordinator, Office of the</b>	<b>VOULME 8</b>
<b>IDAPA 02</b>	<b>Agriculture, Idaho Department of</b>	<b>VOLUME 1</b>
<b>IDAPA 40</b>	<b>Arts, Idaho Commission on the</b>	<b>VOLUME 8</b>
<b>IDAPA 03</b>	<b>Athletic Commission</b>	<b>VOLUME 1</b>
<b>IDAPA 04</b>	<b>Attorney General, Office of the</b>	<b>VOLUME 1</b>
<b>IDAPA 53</b>	<b>Barley Commission, Idaho</b>	<b>VOLUME 9</b>
<b>IDAPA 51</b>	<b>Beef Council, Idaho</b>	<b>VOLUME 9</b>
<b>IDAPA 07</b>	<b>Building Safety, Division of</b> Electrical Board Plumbing Board Building Code Advisory Board Public Works Contractors License Board HVAC Board	<b>VOLUME 2</b>
<b>IDAPA 43</b>	<b>Canola and Rapeseed Commission, Idaho</b>	<b>VOLUME 8</b>
<b>IDAPA 09</b>	<b>Commerce and Labor, Idaho Department of</b>	<b>VOLUME 2</b>
<b>IDAPA 06</b>	<b>Correction, Board of</b>	<b>VOLUME 2</b>
<b>IDAPA 19</b>	<b>Dentistry, Board of</b>	<b>VOLUME 6</b>
<b>IDAPA 08</b>	<b>Education, Board of and Department of</b>	<b>VOLUME 2</b>
<b>IDAPA 10</b>	<b>Engineers and Land Surveyors, Board of Professional</b>	<b>VOLUME 2</b>
<b>IDAPA 58</b>	<b>Environmental Quality, Department of</b>	<b>VOLUME 9</b>
<b>IDAPA 12</b>	<b>Finance, Department of</b>	<b>VOLUME 3</b>
<b>IDAPA 13</b>	<b>Fish and Game, Department of</b>	<b>VOLUME 3</b>
<b>IDAPA 14</b>	<b>Geologists, Board of Registration of Professional</b>	<b>VOLUME 3</b>

**ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER  
AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS**

<b>IDAPA 15</b>	<b>Governor</b> , Office of the Idaho Commission on Aging Idaho Commission for the Blind and Visually Impaired Idaho Forest Products Commission Division of Human Resources and Personnel Commission Idaho Liquor Dispensary Emergency Response Commission	<b>VOLUME 3</b>
<b>IDAPA 16</b>	<b>Health and Welfare</b> , Department of	<b>VOLUMES 3, 4, &amp; 5</b>
<b>IDAPA 45</b>	<b>Human Rights Commission</b>	<b>VOLUME 8</b>
<b>IDAPA 30</b>	<b>Idaho State Library</b>	<b>VOLUME 7</b>
<b>IDAPA 11</b>	<b>Idaho State Police</b>	<b>VOLUME 2 &amp; 3</b>
<b>IDAPA 39</b>	<b>Idaho Transportation Department</b>	<b>VOLUME 8</b>
<b>IDAPA 17</b>	<b>Industrial Commission</b>	<b>VOLUME 5</b>
<b>IDAPA 18</b>	<b>Insurance</b> , Department of	<b>VOLUME 5 &amp; 6</b>
<b>IDAPA 05</b>	<b>Juvenile Corrections</b> , Department of	<b>VOLUME 1</b>
<b>IDAPA 20</b>	<b>Lands</b> , Department of	<b>VOLUME 6</b>
<b>IDAPA 52</b>	<b>Lottery Commission</b> , Idaho State	<b>VOLUME 9</b>
<b>IDAPA 22</b>	<b>Medicine</b> , Board of	<b>VOLUME 6</b>
<b>IDAPA 23</b>	<b>Nursing</b> , Board of	<b>VOLUME 6</b>
<b>IDAPA 24</b>	<b>Occupational Licenses</b> , Board of Board of Architectural Examiners Board of Barber Examiners Board of Chiropractic Physicians Board of Cosmetology Board of Drinking Water and Wastewater Specialists Board of Environmental Health Specialist Examiners Board of Hearing Aid Dealers and Fitters Board of Landscape Architects Board of Morticians Board of Examiners of Nursing Home Administrators Board of Optometry Board of Podiatry Board of Psychologist Examiners Board of Social Work Examiners Board of Professional Counselors and Marriage and Family Therapists Board of Dentistry Board of Acupuncture Real Estate Appraiser Board Board of Residential Care Facility Administrators	<b>VOLUME 6</b>

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS</b>		
<b>IDAPA 25</b>	<b>Outfitters and Guides Licensing Board</b>	<b>VOLUME 6</b>
<b>IDAPA 50</b>	<b>Pardons and Parole, Commission for</b>	<b>VOLUME 9</b>
<b>IDAPA 26</b>	<b>Parks and Recreation, Department of</b>	<b>VOLUME 6 &amp; 7</b>
<b>IDAPA 27</b>	<b>Pharmacy, Board of</b>	<b>VOLUME 7</b>
<b>IDAPA 29</b>	<b>Potato Commission, Idaho</b>	<b>VOLUME 7</b>
<b>IDAPA 59</b>	<b>Public Employee Retirement System of Idaho - PERSI</b>	<b>VOLUME 9</b>
<b>IDAPA 41</b>	<b>Public Health Districts</b>	<b>VOLUME 8</b>
<b>IDAPA 31</b>	<b>Public Utilities Commission</b>	<b>VOLUME 7</b>
<b>IDAPA 56</b>	<b>Rangeland Resources Commission, Idaho</b>	<b>VOLUME 9</b>
<b>IDAPA 33</b>	<b>Real Estate Commission, Idaho</b>	<b>VOLUME 7</b>
<b>IDAPA 34</b>	<b>Secretary of State, Office of the</b>	<b>VOLUME 7</b>
<b>IDAPA 49</b>	<b>Shorthand Reporters, Board of Certified</b>	<b>VOLUME 8</b>
<b>IDAPA 36</b>	<b>Tax Appeals, Board of</b>	<b>VOLUME 7</b>
<b>IDAPA 35</b>	<b>Tax Commission, State</b>	<b>VOLUME 7</b>
<b>IDAPA 54</b>	<b>Treasurer, Office of the State</b>	<b>VOLUME 8</b>
<b>IDAPA 21</b>	<b>Veterans Services, Division of</b>	<b>VOLUME 6</b>
<b>IDAPA 46</b>	<b>Veterinary Medical Examiners, Board of</b>	<b>VOLUME 8</b>
<b>IDAPA 55</b>	<b>Vocational and Technical Education, Division of</b>	<b>VOLUME 9</b>
<b>IDAPA 47</b>	<b>Vocational Rehabilitation, Division of</b>	<b>VOLUME 8</b>
<b>IDAPA 37</b>	<b>Water Resources, Department of</b>	<b>VOLUME 8</b>
<b>IDAPA 42</b>	<b>Wheat Commission</b>	<b>VOLUME 8</b>

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2005-25**

***CONTINUATION OF THE DESIGNATION OF THE IDAHO TRANSPORTATION DEPARTMENT AND ITS DIRECTOR AS THE RECIPIENT OF FEDERAL FUNDS FOR PUBLIC TRANSPORTATION***

---

*WHEREAS, the federal government, under authority granted by the Federal Transit Act, as amended, is authorized to provide financial assistance to states to improve public transportation; and*

*WHEREAS, such aid has been offered to Idaho; and*

*WHEREAS, it is necessary that an agency of the State of Idaho be designated and authorized to receive and expend such financial assistance; and*

*NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby continue the designation of the Idaho Transportation Department and its Director to receive and expend monies from the federal government for public transportation assistance as provided under the applicable federal statutes.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 22nd day of December in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred thirtieth and of the Statehood of Idaho the one hundred sixteenth.*

---

**DIRK KEMPTHORNE  
GOVERNOR**

---

**BEN YSURSA  
SECRETARY OF STATE**

**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING**  
**DOCKET NO. 07-0205-0501**  
**NOTICE OF VACATION OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 54-2605, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for vacating this rulemaking:

The agency has vacated this rulemaking as a result of substantial negative commentary and concerns that have been raised by members of the public and the industry.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation of rulemaking, contact Stephen Keys, Bureau Chief, (208) 332-7147.

DATED this 28th day of December, 2005.

Stephen Keys, Bureau Chief  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 332-7147  
Fax: (208) 855-2164

**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**07.02.06 - RULES CONCERNING UNIFORM PLUMBING CODE**  
**DOCKET NO. 07-0206-0502**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2605, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the December 7, 2005 Idaho Administrative Bulletin, Vol. 05-12, pages 21 through 23.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Bureau Chief, (208) 332-8986.

DATED this 30th day of December, 2005.

Stephen L. Keys  
Bureau Chief  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (208) 855-2164

---

**DOCKET NO. 07-0206-0502 - PENDING RULE**

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 05-12, December 7, 2005, pages 21 through 23](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR  
IDAHO DEPARTMENT OF ADMINISTRATION**  
**IDAPA 31 - PUBLIC UTILITIES COMMISSION**

**31.21.01 - CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION  
(THE UTILITY CUSTOMER RELATIONS RULES)**

**DOCKET NO. 31-2101-0402**

**NOTICE OF RULEMAKING - CORRECTION TO PENDING RULE**

**CORRECTION SUMMARY:** This notice corrects an error that occurred during the publication of the pending rule under Docket No. 31-2101-0402 in the January 4, 2006 Idaho Administrative Bulletin, Vol. 06-1. Some of the changes that were made by the agency to the pending rule as a result of comments received during the proposed rulemaking, and submitted for publication in the Bulletin, were not reprinted during the publication of the pending rule. Those changes are being reprinted here as they were adopted by the agency and submitted to the legislature for review and approval.

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective upon conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** This action is authorized pursuant to Sections 67-5224 and 67-5228, Idaho Code. The corrected text of the pending rule is being reprinted here as adopted by the agency. Rulemaking is authorized by the PUC pursuant to Section(s) 61-302, 61-303, 61-307, 61-503, 61-507, and 61-515, Idaho Code.

**PENDING RULE:** The pending rule was published in the January 4, 2006 Idaho Administrative Bulletin, Volume 06-1, pages 282 and 283. The original text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Volume 05-10 pages 558 through 562.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this correction to pending rule, contact Dennis Stevenson, Administrative Rules Coordinator, Office of the Administrative Rules Coordinator, (208) 332-1820.

DATED this 22nd day of August, 2005.

Dennis Stevenson  
Administrative Rules Coordinator  
Office of Administrative Rules  
650 W. State St.  
Boise, Idaho 83720-0306  
Telephone: (208) 332-1820  
Facsimile: (208) 332-1896

---

**PENDING RULE DOCKET 31-2101-0402 IS BEING REPRINTED HERE IN ITS ENTIRETY.**

**305. CONTENTS OF NOTICE OF INTENT TO TERMINATE SERVICE (RULE 305).**

**01.** **Contents of Notice.** The written or oral notice of intent to terminate service required by Rule 304 shall state: (7-1-93)( )

**01a.** **Reasons for Termination.** The reason(s), citing these rules, why service will be terminated and the proposed date of termination; (7-1-93)( )

**02b.** **Actions to Avoid Termination.** Actions the customer may take to avoid termination of service; (7-1-93)( )

**03c.** **Medical Certificate.** That a certificate notifying the utility of a serious illness or medical emergency in the household may delay termination as prescribed by Rule 308; (7-1-93)( )

**04d.** **Filing Complaints.** That an informal or formal complaint concerning termination may be filed with the utility or the Commission, and that service will not be terminated on the ground relating to the dispute between the customer and the utility before resolution of the complaint (the Commission's address and telephone number must be given to the customer); and (7-1-93)( )

**05e.** **Payment Arrangements.** That the utility is willing to make payment arrangements (this statement must be in bold print on written notices). (7-1-93)( )

**06f.** **Partial Payments.** That for purposes of termination, partial payments will be applied toward utility service charges first, unless the customer requests otherwise, and that charges for non-utility services cannot be used as a basis for termination. (3-30-01)( )

**02.** **Additional Requirements for Gas and Electric Utilities.** During the months of November, December, January and February, oral and written notices provided by gas and electric utilities to residential customers shall include or be accompanied by an explanation of restrictions on termination of service and the availability of the Winter Payment Plan described in Rule 306. ( )

**306. TERMINATION OF RESIDENTIAL GAS AND ELECTRIC SERVICE -- WINTER PAYMENT PLAN (RULE 306).**

**01. Restrictions on Termination of Service to Households With Children, Elderly, or Infirm.** Except as provided in Rule 303, no gas or electric utility may terminate service or threaten to terminate service during the months of December through February to any residential customer who declares that he or she is unable to pay in full for utility service and whose household includes children, elderly or infirm persons. (7-1-93)

**02. Definitions for This Rule.** For purposes of this rule: (7-1-93)

**a.** "Children" are defined as means persons eighteen (18) years of age or younger, but customers who are emancipated minors are not children under this rule. (7-1-93)( )

**b.** "Elderly" are defined as means persons sixty two (62) years of age or older. (7-1-93)( )

**c.** "Infirm" are defined as means persons whose physical health or safety would be seriously impaired by termination of utility service. (7-1-93)( )

**03. Opportunity to Participate in Winter Payment Plan.** Any residential customer who declares that he or she is unable to pay in full for utility service and whose household includes children, elderly or infirm persons ~~must~~ shall be offered the opportunity to establish a Winter Payment Plan. However, no customer may be required to establish such a plan. Except as provided in Rule 303, no gas or electric utility may terminate service during the months of November through March to any customer who establishes a Winter Payment Plan before November 1. A

customer may establish a Winter Payment Plan after November 1, but the extended protection from termination of service offered under such a plan will not begin until the date the plan is established. Failure of a participating customer to make payments as required will result in cancellation of the plan and elimination of the extended protection from termination of service offered under the plan. The customer may use any source of funds to satisfy the payment requirements of Winter Payment Plan. (7-1-93)()

**04. Amount of Payments Under Winter Payment Plan.** Monthly payments under a Winter Payment Plan are equal to one-half (1/2) of the Level Pay Plan amount for that customer. The Level Payment Plan amount ~~must shall~~ be calculated according to Rule 313.06. (7-1-93)()

**05. Payment Arrangements Following Winter Payment Plan.** If a customer who received the protection of this rule has an outstanding balance owed to the utility, the customer ~~must shall~~ either pay this balance or negotiate a new payment arrangement. (7-1-93)()

a. On or after March 1, if the customer has not established a Winter Payment Plan; or (7-1-93)

b. On or after April 1, if the customer has established a Winter Payment plan. Failure of a customer to pay or make payment arrangements on or after these dates may result in termination of service. (7-1-93)

**06. Successive Participation in Winter Payment Plan.** A *residential* customer who participates in a Winter Payment Plan one (1) year ~~must shall~~ be allowed to participate in succeeding years if the customer has honored the payment arrangements and the balance owing as of November 1 does not exceed seventy-five dollars (\$75) or the customer's utility bill for the previous thirty (30) days, whichever is greater. However, the utility is not required to connect or reconnect the service of a customer or applicant who does not currently have utility service and owes an unpaid, undisputed bill to the utility. (7-1-93)()

**07. Unoccupied Residences, Etc - Failure or Refusal to Apply for Service.** Nothing in this rule prevents a gas or electric utility from terminating service to unoccupied residences or residences where the occupants have failed or refused to apply for utility service. ~~Nothing in this rule requires the utility to connect service for a customer who owes money on an existing account when that customer moves to a new residence that does not currently have service.~~ (7-1-93)()

**08. Customers Who Move.** During the months of December, January and February, a gas or electric utility shall continue to provide service to any residential customer who made a declaration as provided for in Subsection 306.01 and subsequently moves to a new residence served by the same utility, regardless of any outstanding balance owed by the customer. If service is not connected at the new residence, service shall be connected as soon as possible after the customer requests service at the new residence. (7-1-93)()

**09. Applicants Previously Served.** During the months of December, January and February, a gas or electric utility shall provide service to any residential applicant who made a declaration as provided for in Subsection 306.01 and within thirty (30) days of discontinuing service, subsequently applies for service at a new residence served by the same utility, regardless of any outstanding balance owed by the applicant. If service is not connected at the new residence, service shall be connected as soon as possible after the applicant requests service at the new residence. (7-1-93)()

**(BREAK IN CONTINUITY OF SECTIONS)**

**311. RESTRICTIONS ON TERMINATION OF SERVICE -- OPPORTUNITY TO AVOID TERMINATION OF SERVICE (RULE 311).**

**01. When Termination Not Allowed.** Service shall not be terminated on any Friday after 12 p.m. noon, or on Saturday, Sunday, legal holidays recognized by the State of Idaho, or ~~after 2 p.m.~~ on any day immediately preceding any legal holiday, or at any time when the utility is not open for business, except as authorized by Rules 303.01 and 303.02. Service may be terminated between the hours of 4 p.m. and 9 p.m., Monday through Thursday, if the utility is unable to gain access to the customer's meter during normal business hours. Unless otherwise authorized

by this rule, Rules 303.01 and 303.02, or the affected customer in writing, service may be terminated only between the hours of 8:00 a.m. and 4:00 p.m. (5-3-03)()

**02. Personnel to Authorize Reconnection.** Each utility shall have personnel available after the time of termination who are authorized to reconnect service if the conditions cited as grounds for termination are corrected to the utility's satisfaction. Service shall be reconnected as soon as possible, but no later than twenty-four (24) hours after the utility's conditions are satisfied and the customer requests reconnection. (5-3-03)

**03. Opportunity to Prevent Termination of Service.** Immediately preceding termination of service, the employee designated to terminate service shall identify himself or herself to the customer or other responsible adult upon the premises and shall announce the purpose of the employee's presence. This employee shall have in his or her possession the past due account record of the customer and shall request any available verification that the outstanding bills are satisfied or currently in dispute before this Commission. Upon presentation of evidence that outstanding bills are satisfied or currently in dispute before this Commission, service shall not be terminated. The employee shall be authorized to accept full payment, or, at the discretion of the utility, partial payment, and in such case shall not terminate service. Nothing in this rule prevents a utility from proceeding with termination of service if the customer or other responsible adult is not on the premises at the time of termination. (5-3-03)

**04. Notice of Procedure for Reconnecting Service.** The employee of the utility designated to terminate service shall give to the customer or leave in a conspicuous location at the service address affected a notice showing, the time of and grounds for termination, steps to be taken to secure reconnection, and the telephone numbers of utility personnel or other authorized representatives who are available to authorize reconnection. (5-3-03)

**05. No Termination While Complaint Pending.** Except as authorized by order of the Commission or of the Judiciary, service shall not be terminated for failure to pay amounts in dispute while a complaint filed pursuant to Rule 402 is pending before this Commission or while a case placing at issue payment for utility service is pending before a court in the state of Idaho. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**701. SUMMARY OF RULES (RULE 701).**

**01. Summary to Be Provided to Customers.** Each utility ~~must make available~~ shall provide to its customers a summary of this chapter approved by the Commission. The summary shall be provided to customers at least once each year and must be available at local offices of the utility in Idaho and provided to each new customer upon commencement of service. ()

**02. Contents of Summary.** The summary ~~sent by gas and electric utilities must shall include or be accompanied by information explaining the Third Party Notification Program described in Rule 307 and a~~ the following information: ()

- a.** An explanation of the conditions under which the utility may request a deposit; ()
- b.** An explanation of the conditions under which the utility may deny or terminate service; ()
- c.** An explanation of how termination of service may be postponed due to serious illness or medical emergency (residential customers only); ()
- d.** A statement of the utility's willingness ~~pursuant to Rule 311~~ to make payment arrangements to assist customers having difficulty paying their utility bills; ~~Foreign language summaries of the rules~~ ()
- e.** An explanation of how to file a complaint with the utility and the Commission; and ()
- f.** A statement that termination of service is prohibited while a complaint is pending with the

Commission or with a court in the State of Idaho.

**03.** **Summary for Gas and Electric Customers.** The summary provided by a gas or electric utility also shall include the following information:

**a.** An explanation of restrictions on termination of service and the availability of the Winter Payment Plan described in Rule 306 (residential customers only).

**b.** An explanation of the Third Party Notification Program described in Rule 307 (residential customers only); and

**c.** An explanation of the availability of the Level Pay Plan described in Rule 313.

**04.** **Model Summaries.** Model Rules Summaries, including Spanish language translations for residential customers, shall be provided by the Commission to ~~the utilities must be made available to customers, civic organizations, etc., on~~ and other interested parties upon request. ~~(7-1-93)~~

## **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**DOCKET NO. 58-0000-0601**

### **NOTICE OF FINAL DECISION ON THE COW CREEK TMDL**

**AUTHORITY:** In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Cow Creek Total Maximum Daily Load (TMDL).

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Cow Creek TMDL. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Cow Creek TMDL (Hydrologic Unit Code 17060108) addresses one stream and its associated assessment units on Idaho's 1998 Section 303(d) list. DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

**AVAILABILITY OF THE TMDL:** Electronic copy of the TMDL can be obtained at [http://www.deq.idaho.gov/water/data\\_reports/surface\\_water/tmdl/cow\\_creek/cow\\_creek.cfm](http://www.deq.idaho.gov/water/data_reports/surface_water/tmdl/cow_creek/cow_creek.cfm) or by contacting Marti Bridges, TMDL Program Manager, 208-373-0382, [marti.bridges@deq.idaho.gov](mailto:marti.bridges@deq.idaho.gov).

Dated this 30th day of December, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[Paula.wilson@deq.idaho.gov](mailto:Paula.wilson@deq.idaho.gov)

# **Subjects Affected Index**

---

## **IDAPA 31 - PUBLIC UTILITIES COMMISSION**

**31.21.01 - Customer Relations Rules for Gas, Electric and Water Public Utilities Regulated  
by the Idaho Public Utilities Commission  
(The Utility Customer Relations Rules)**

Docket No. **31-2101-0402**

306. Termination Of Residential Gas And Electric Service -- Winter Payment Plan (Rule 306). ....	15
311. Restrictions On Termination Of Service -- Opportunity To Avoid Termination Of Service (Rule 311).....	16
701. Summary Of Rules (Rule 701). .....	17

# **LEGAL NOTICE**

## **Summary of Proposed Rulemakings**

---

### **PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES**

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

**Because of the moratorium on proposed rulemaking during the legislative session  
there are no proposed rules being promulgated or published in this month's Bulletin**

Please refer to the Idaho Administrative Bulletin, **February 1, 2006, Volume 06-2** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

**Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.**

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering call (208) 332-1820 or write the Office of Administrative Rules, Department of Administration, 650 W. State St., Room 100, Boise, Idaho 83720-0306. Visa and Mastercard accepted.

The Idaho Administrative Bulletin and Administrative Code are available on-line at: <http://adm.idaho.gov/adminrules/>

**CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

**FOR THE ABOVE LINK TO WORK YOU HAVE  
TO BE CONNECTED TO THE INTERNET**

This index tracks the history of all agency rulemakings from 1993 to the present.  
It includes all rulemaking activities on each chapter of rules  
and includes negotiated, temporary, proposed, pending  
and final rules, public hearing notices  
and vacated rulemaking notices.

# **Subject Index**

## **A**

Amount of Payments Under Winter Payment Plan 16

## **C**

Contents Of Notice Of Intent To Terminate Service 15  
Contents of Summary, Summary of Rules 17

## **D**

Definitions, Winter Payment Plan, Section 306 15

## **M**

Model Summaries, Summary of Rules 18

## **N**

No Termination While Complaint Pending, Opportunity to Avoid Termination of Service 17  
Notice of Procedure for Reconnecting Service, Opportunity to Avoid Termination of Service 17

## **O**

Opportunity to Participate in Winter Payment Plan 15  
Opportunity to Prevent Termination of Service 17

## **P**

Payment Arrangements Following Winter Payment Plan 16  
Personnel to Authorize Reconnection, Opportunity to Avoid Termination of Service 17

## **R**

Restrictions On Termination Of Service -- Opportunity To Avoid Termination Of Service 16  
Restrictions on Termination of Service to Certain Households, Winter Payment Plan 15

## **S**

Successive Participation in Winter Payment Plan 16  
Summary Of Rules 17  
Summary for Gas & Electric Customers, Summary of Rules 18  
Summary to Be Provided to Customers, Summary of Rules 17

## **T**

Termination Of Residential Gas & Electric Service--Winter Payment Plan 15

## **U**

Unoccupied Residences, Etc., Winter Payment Plan 16

## **W**

When Termination Not Allowed, Opportunity to Avoid Termination of Service 16